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October 18, 1995

BY HAND

Mr. William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Petition for Reconsideration in
CC Docket No. 92-115 -- Ex Parte Presentation

Dear Mr. Caton:

This is to provide notice, pursuant to Section 1.1206 of the Commission's Rules, that Carol A. Patton, President of C-Two Plus Technology ("C2+") and the undersigned, as counsel for C2+, met yesterday with David A. Siddall, Legal Advisor to Commission Ness.

The matters discussed were those contained in C2+'s Petition for Reconsideration, other submissions in the record, and the attached documents. An original and two copies of this notice and the attachments are being submitted.

If you have any questions regarding this matter, please contact me.

Very truly yours,

Timothy J. Fitzgibbon
Counsel for
C-Two Plus Technology

TJF:kdd
Enclosures
cc: David A. Siddall, Esquire (w/encl.)

MOTOROLA INC.

PAN AMERICAN CELLULAR SUBSCRIBER GROUP
Gerry Lenk, Director of Quality
1475 W. Shure Drive
Arlington Heights, Illinois 60004
1-800-331-6456 / (708) 632-2427

CELLULAR SERVICE bulletin

CSB: 162
Date: July 1991
APC: 194 & 781

CELLULAR SUBSCRIBER PRODUCTS

SUBJECT: Extended System Field Servicing

MODELS AFFECTED: All ES Models: S1751, S1945, S1952, S2200, S2201, and S2480

The Extended System (ES) provides a true 3-watt car adapter for Ultra Classic and Personal Communicator cellular phones. It is designed as a specialized mobile transceiver which is capable of reading the ESN and NAM from the portable unit and operating under the alias of those parameters, as discussed in CSB 123 (for PC's) and CSB 129 (for Ultra Classics). After over a year of field service, several installation and troubleshooting issues have recurred.

The ES installation is very similar to a mobile installation. The primary difference involves the connection of the portable unit to the mobile portion. This is accomplished by using one 8-pin modular connector (on the power/control cable) for the handset and the second one (on the ES transceiver chassis) for a cable which connects to the portable. When the Personal Communicator ES is installed, an Interface Box **SLN2503** must be installed between the PC cord and the ES transceiver. Accidentally installing this box in line with the handset will cause very intermittent operation, including a "loaner" message in the control unit display. If a handset ever displays "loaner", make sure this is not the reason why.

Two misunderstandings concerning ES operation have recurred: first, the ESN and NAM in the ES transceiver can be programmed and activated independently of the Ultra Classic or PC, but when the ES and Ultra Classic / PC are connected together **only the Ultra Classic / PC NAM is active. The ES NAM is inactive until the Ultra Classic / PC is disconnected.** Second, the selectable system registration option reverts to a default Std AB or Std BA upon ES power-up, regardless of any unique selection made prior to power-up. Customers and shops consistently seem unclear on these issues and spend unnecessary time trying to "troubleshoot" them.

Notice that the ES users' manuals specify that all operation is performed from the handset. This means that the Ultra Classic / PC is *not* intended to be used as a handset. The Ultra Classic slides into a carrier which prevents access to the keypad and display. The PC will not operate as a second handset in the ES configuration, yet there is a *natural* tendency to attempt to use it as such. The PC keypad, display, and audio paths are *not* intended to be used while in an ES and will not operate properly.

Make sure the correct Extended System is being used for a given Ultra Classic / PC unit. The features in each ES transceiver are tailored for each specific Ultra Classic / PC unit. A "direct" PC will not operate correctly in an "indirect" ES, for instance, and a "wireline" Ultra Classic will not operate correctly in a "non-wireline" ES. Usually this will manifest itself in features not operating as they should, or features operating improperly or inconsistently. This could also account for "loaner" being displayed in the control unit display.

Finally, three ES software updates have caused additional confusion. The first update was due to a possibility for the ESN and model information (as displayed in the 68# test command) to be erased. The second because it was possible for the ES handset to "lock up" if SAT is lost during a phone call. When this happened, only the power key would work on the handset, which turned the unit off. Finally, the model information was loaded wrong in some model S2201D and S2480A units, whereby the model information for a S2200D was loaded instead. This situation can be identified by reading the model information (test mode, 68# command). The display should read 03, 04 or 8C (in hexidecimal) as indicated in the attached chart. Any ES transceiver containing model information or software other than the "CURRENT" version (again, see the attached chart) should be returned to the CSRC for software replacement.

CELLULAR SERVICE
bulletin

MOTOROLA INC.
NORTH AMERICAN SUBSCRIBER DIV.
1501 W. Shure Drive
Arlington Heights, Illinois 60004

CSB: 123
Date: October 1989
APC: 674

CELLULAR SUBSCRIBER PRODUCTS

SUBJECT: **New Product Announcement — MicroT•A•C™ Personal Telephone Accessories: Extended System Car Adapter and Vehicular Charger**

MODELS AFFECTED:

S1751B	Extended System Car Adapter
S1758A	Vehicular Charger / Holder

S1751B Extended System Car Adapter

The Extended System (ES) Car Adapter accessory allows the customer to use his Personal Telephone in his vehicle, adding several popular mobile accessories including:

- 3 Watt Transmitter Power
- Diversity Antenna operation
- Full-Duplex Digital Hands Free
- Voice Caller speech recognition circuitry
- Dual NAM operation in both the PT and the ES (max. of 4 numbers)
- Independent operation of the car adapter portion (using a different ESN)
- 832-channel operation

The ES configuration is very similar to a standard mobile telephone (see diagram, page 3). A special DMT mobile telephone connects directly to the PT via an Interface Box (SLN2503A) and PT Coil Cord (SKN4291B), which connect between the PT 8-pin connector and the 8-pin modular handset connector located either on the transceiver Audio/Logic Board or in the mobile cable kit. A standard 6800XL handset is connected to the other port, and an additional ground strap (included with SLN2503A Interface Box) is connected from the DMT to vehicle chassis for added noise/static protection.

When the PT is connected through the Coil Cord, the PT ESN and NAM are used by the mobile transceiver. The ES is operated via the handset in exactly the same manner as a standard mobile telephone. The Station Class Mark in the ES is automatically changed from the NAM setting in the PT to indicate that the ES is capable of 3 Watt output power. *(NOTE: the PT keypad and display are normally disabled while in the ES configuration. Some PT models allow limited use of keypad and display, although neither is fully operational. The PT is never intended for use as a handset while in the ES configuration.* ***Audio paths to and from the PT are always disabled.)***

If applicable, note this bulletin number on warranty claims forms and make necessary changes to service manuals.

* Not User Price for domestic use only and subject to change without notice.

When the PT is removed from the PT Coil Cord, the ES mobile system can operate independently using its own ESN and NAM information which may be programmed directly into the transceiver via traditional programming procedures. This includes all three programming methods: **"User Mode"** or Keypad Programming, **Test Mode** Programming via the 55# command, and programming via the **Motorola R1801** programmer. If the PT is connected to the ES while the ES is in test mode, the PT is not affected in any manner; all NAM programming is limited to the ES transceiver in this case.

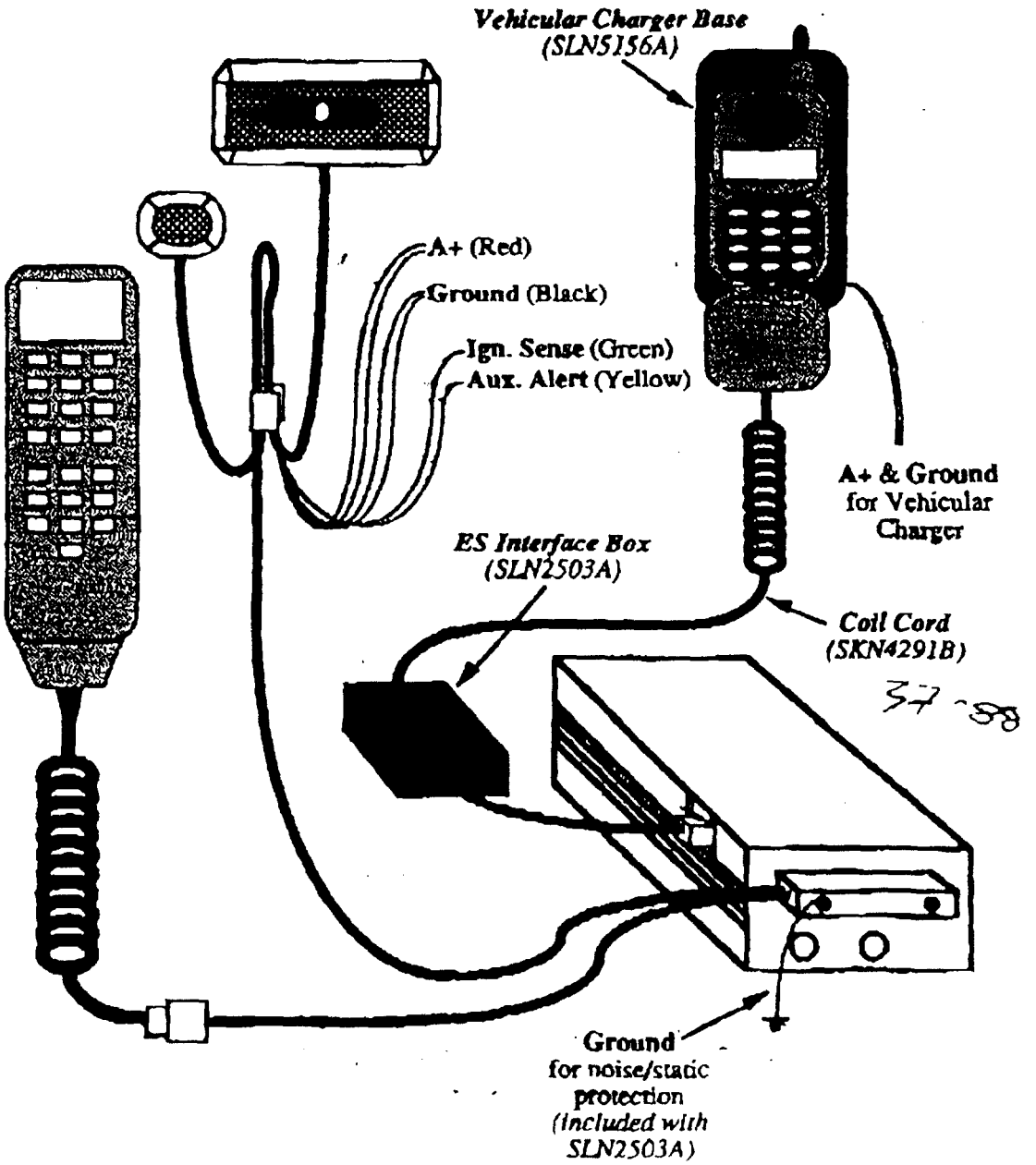
The Extended System will not work with any other radio options besides the PT. This includes **rear seat or second handset** installations, **Cellular Connections™**, and **Private Link™ voice privacy boards**. All of these options use the power supplies in the radio, and the DVC Board uses all available power not used by the radio itself.

The Extended System consists of an ES transceiver, 6800XL handset, plus cabling to the PT and to the handset, DVSP microphone and speaker as shown on page 3. Servicing and programming details for the **PT** are discussed separately in **CSB 110**. Servicing details for the **ES transceiver, handset, DVSP cable, microphone and speaker** are the same as existing mobile products. Since the transceiver is a Voice Caller model, it has a DVC Board and special Audio/Logic Board which are discussed in **CSB 106**. The mobile unit may be placed in test mode with the standard 25-pin in-line test connector, and all test commands and adjustments are available, including TX Power, TX Deviation and RX Discriminator adjustments. Refer to user's manuals for operational details on the PT, the DVC and other mobile/portable accessories. The only new pieces of hardware in the ES are the **PT Coil Cord** (SKN4291B) and **ES Interface Box** (SLN2503A; see page 4 for replacement part information).

S1758A Vehicular Charger / Holder

The S1758A Vehicular Charger / Holder is a fast charger which operates from the customer's vehicle. It includes **cables (SKN4347A)** for permanent vehicle installation and for connection to a cigarette lighter jack. The vehicle does not need to be running for the charger to operate (car alternator is not required as in transportable chargers) and the batteries will normally need the same charge times as for the S1754A Intelli-charger™ Rapid Charger (see CSB 110 for details). The **charger base (SLN5897A)** has a single pocket to charge the battery while it is attached to the Personal Telephone and in use with the S1751 ES Adapter. The charge indicator will switch from red (fast-charge mode) to green (slow-charge mode) as in the S1754 Rapid Charger. A battery may be charged without the PT attached, but it will not lock in place. Charging in this manner is not recommended while the vehicle is moving. ***Note: the Vehicular Charger / Holder is also included with the complete ES Accessory.***

Extended System Configuration



DHFA (Digital Hands Free Adapter)

The "N" Series radio is fully compatible with the following DHFA kits:

- S1979A (SLN2571A) for Gray "N" Series (Microphone included)
- S1980A (SLN2571A) for Gray "N" Series (No Microphone)
- S1981A (SLN2573A) for Charcoal "N" Series
- S1953A (SLN2551A) for Black "N" Series

The above DHFA kits are also compatible with "K" and "L" Series portables.

(NOTE: The "N" Series radio is not compatible with earlier DHFA kits, S1805A, S1807A, and S1786A.)

Cigarette Lighter Battery Adapter (Travel Battery Saver)

The "N" Series radio is fully compatible with all Cigarette Lighter Battery Adapters SLN4139A Gray, SLN2351A Charcoal, and SLN2554A Black.

VA (Vehicle Adapter)

The "N" Series radio is fully compatible with the previous Vehicle Adapter TLN2688A

CVC (Cellular Convertible Radiotelephone)

The "N" Series radio is not compatible with any version of the CVC.

SECTION: 2) **Extended System (ES) Car Adapter**

MODELS AFFECTED:

F09NFD8444AA	**9800XL with Extended System**
S1952A	**Extended System for 9800XL only**

And any other models to be released in the future

Note: The Model F09NFD8453AA 9800XL is not compatible in the S1952A Kit.

The Extended System (ES) Car Adapter Accessory allows the customer to use his "N" Series portable in his vehicle, adding some or all of these popular mobile features (depending on the portable model).

- 3 Watt Transmitter Power
- Diversity Antenna operation
- Full-Duplex Digital Hands Free
- Digital Voice Caller speech recognition circuitry
- Dual NAM operation in both the "N" series and the ES (4 number operation total, but only the "N" Series NAMs can be accessed while the portable is connected in the ES configuration).
- Independent operation of the car adapter portion (using a different ESN)
- 832-channel operation

System Configuration

The ES System is configured very similarly to a standard D.M.T. mobile telephone. See Figure 2. Without removing the antenna, the "N" series is placed in the unique ES mount which connects via a cable directly to the 8-pin modular port of a special D.M.T. mobile transceiver. From the mobile, a standard 25-pin molex type DVSP cable kit is used to provide power, operate the handset, and operate the DVSP Speaker and Microphone. The only addition is the battery trickle charger, which ties to the same power connections as the control/power cable.

When the "N" series is placed in the ES mount:

- The "N" series ESN and NAM are used by the mobile transceiver, which is operated via the handset in exactly the same manner as a standard mobile telephone. **Note: only the "N" Series NAMs can be accessed while the portable is connected in the ES configuration. The NAMs in the mobile portion of the ES can only be accessed when the portable is removed. Only the ESN and the NAM are transferred into the ES. Repertory memory is not transferred. It must be entered into the mobile stored memory if desired.**
- The Station Class Mark in the mobile portion of the ES should be programmed as 08 or 12 to indicate 3W and 832-channel capability.

Using the ES mobile by itself (without the "N" series in the ES mount):

The ES mobile system can operate independently using its own ESN and NAM information, which may be programmed directly into the transceiver via traditional programming procedures.

This includes all three programming methods:

- User Mode "security code" Keypad Programming based on key descriptions.
- Test Mode Programming via the "55 #" manual test mode command.
- Motorola R1801 programmer with Celprog software (latest version G).

Note: If the "N" series portable is connected to the ES while the ES is in test mode, the "N" series is not affected in any manner; all NAM programming is limited to the ES transceiver in this case.

Servicing the ES System

Figure 3. shows the pin assignments for the "N" Series portable **(note they are different than earlier portable units)**. These are useful when troubleshooting the ES system when trying to isolate the problem to the portable, the ES wiring installation, or the mobile portion of the ES system. Servicing details for the ES mobile unit, handset and cable are the same as existing mobile products. If you have a Digital Voice Caller model transceiver, it has a DVC Board and special Audio/Logic Board which are discussed in CSB 106. The mobile unit may be placed in test mode with the standard 25-pin in-line test connector. Test commands and adjustments are available, including TX Power, TX Deviation and RX Discriminator adjustments. Refer to user manuals for operational details on the "N" series, the DVC and other mobile/portable accessories.

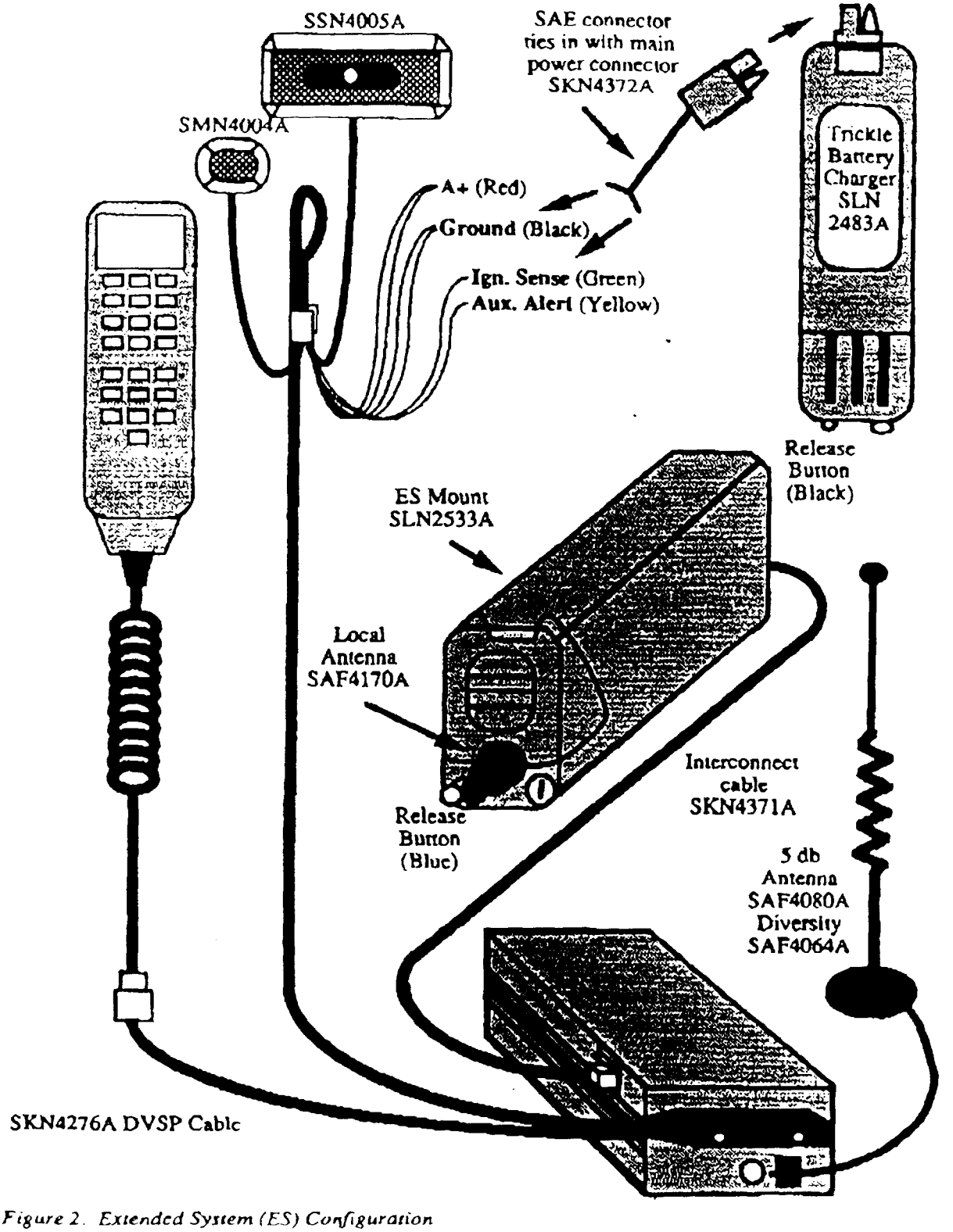


Figure 2. Extended System (ES) Configuration

AO 83 (Rev. 12/85) Summons in a Criminal Case

United States District Court

EASTERN DISTRICT OF KENTUCKY
LEXINGTON

UNITED STATES OF AMERICA
V.

DON YATES
923 Jairus Road
Lexington, KY 40505

(Name and Address of Defendant)

SUMMONS IN A CRIMINAL CASE

CASE NUMBER: 95-5108M

YOU ARE HEREBY SUMMONED to appear before the United States District Court at the place, date and time set forth below.

Place	Room
United States Courthouse 101 Barr Street Lexington, KY	Courtroom C Fourth Floor
Before: Magistrate Judge James B. Todd	Date and Time September 29, 1995 9:00 a.m.

To answer a(n)
☐ Indictment ☐ Information ☒ Complaint ☐ Violation Notice ☐ Probation Violation Petition

Charging you with a violation of Title 18 United States Code, Section(s) 1029

Brief description of offense: possession and trafficking in device making equipment

RECEIVED
UNITED STATES MARSHAL
95 SEP 21 P4:39
EASTERN DISTRICT OF KENTUCKY

Signature of Issuing Officer

September 21, 1995
Date

James B. Todd, U.S. Magistrate Judge
Name and Title of Issuing Officer

AO 91 (Rev. 5/85) Criminal Complaint

Eastern District of Kentucky
FILED
SEP 21
JAMES B. TODD
U.S. MAGISTRATE JUDGE

United States District Court

Eastern DISTRICT OF Kentucky
Lexington

UNITED STATES OF AMERICA
V.

Don Yates
923 Jairus Road
Lexington, Kentucky 40505

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 95-5108M

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about 9/18/95 in Fayette county, in the Eastern District of Kentucky defendant(s) did, (Track Statutory Language of Offense)

did knowingly and with intent to defraud, produce, use and traffic in one or more counterfeit access devices; knowingly and with intent to defraud, produce, traffic in, had control and custody of, and possessed device-making equipment; and knowingly and with intent to defraud had custody, control and possession of hardware used for altering and modifying telecommunications instruments to obtain unauthorized access to telecommunications services; all affecting interstate and foreign commerce.

in violation of Title 18 United States Code, Section(s) 1029 (a)(1), (a)(4), (a)(6)(B)

I further state that I am a(n) Special Agent - USSS (Official Title) and that this complaint is based on the following facts: (See Attached Affidavit of SA James W. Cobb)

Continued on the attached sheet and made a part hereof: [X] Yes [ ] No

James W. Cobb
Signature of Complainant
U.S. Secret Service

Sworn to before me and subscribed in my presence,

September 21, 1995 at Lexington, Kentucky
Date City and State

James B. Todd
Name & Title of Judicial Officer
U.S. Magistrate Judge

Signature of Judicial Officer

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON

UNITED STATES OF AMERICA	)	MAGISTRATE'S DOCKET NO.
V.	)	CASE NO. 95-5108M
	)	
DON YATES	)	AFFIDAVIT FOR COMPLAINT

James W. Cobb, being first duly sworn upon his oath, deposes and says.

1. That he is a Special Agent of the United States Secret Service and has been so employed since December 12th, 1983, and that he has been assigned to and participated in the investigation of cases involving violations of federal law prohibiting the unauthorized use of access devices in violation of Title 18, United States Code, Section 1029.

2. That on or about August 15th, 1995, your complainant interviewed Special Agent Tom Tamburello, U.S. Secret Service, Philadelphia Field Office, who stated that on 4/13/95 he, along with other agents of the Secret Service, executed a federal search warrant on J.E.M. Marketing located at 13 Lynford Rd., Cherry Hill, New Jersey. This business was operated by Irv, Gary and Jody Epstein and was in the business of manufacturing copycat "black boxes" used to illegally reproduce the telephone numbers and electronic serial numbers of cellular telephones.

3. That on that same day, Special Agent Tamburello advised that pursuant to the execution of the aforementioned federal search warrant, a list of purchasers of copycat black boxes was located in the aforementioned suspect location. This list identified a Don Yates, Lexington, Kentucky as one of several purchasers of the illegal "black boxes" manufactured by JEM Marketing.

4. That on August 16th, 1995, your complainant interviewed Dan Ambrosini, Cellular One, 124 Keeneland Dr., Richmond, Ky. Ambrosini had previously telephoned the U.S. Secret Service in Lexington, Ky. to complain about a Don Yates who was using an illegally obtained "black box" to reproduce the telephone numbers and electronic serial numbers of previously issued telephones. Ambrosini stated that Yates has started a business wherein he charges customers one hundred and fifty dollars ($150) to duplicate ("clone") the telephone numbers and electronic serial numbers, belonging to their original cellular telephones, into additional telephones thereby avoiding the activation fees and monthly service fees for

each additionally cloned phone. These monthly service fees include a one time activation fee of $35 per each additional cellular telephone, along with monthly service fees ranging between $25 and $150. Ambrosini advised that the actual loss in dollars to the cellular telephone industry is unknown to date due to their inability to differentiate between calls made on the originally purchased telephone and any phone "cloned" by Don Yates. Ambrosini added that the telephone numbers and electronic serial numbers that are issued to their customers are the property of the cellular carrier, not the customer themselves, and that these numbers are used to facilitate calling and tracking for billing purposes.

Ambrosini advised that customers using a cellular telephone with a telephone number and an electronic serial number can obtain telephone service throughout the United States.

5. That on September 13th, 1995 SA James Burch, United States Secret Service, telephoned Don Yates at 606-272-1440. SA Burch, acting in an undercover capacity, questioned suspect Yates about the procedures involved with obtaining a "cloned " phone and also inquired about the costs involved. SA Burch told me that Yates stated he could duplicate the telephone number of his (Burch's) cellular telephone onto additional cellular telephones wherein the cellular system would only "see" the original phone as being used. Yates stated that the only fee would be a one time programming fee to him. Yates stated that although he (Burch) would have to pay the carrier for the additional air time generated by the second phone, he would not have to pay for any extra additional charges on a monthly basis for having additional cellular telephones. Yates told Burch he operates his business out of a van and would meet him when Burch was ready to "clone" cellular telephones.

6. That on September 18th, 1995 Cellular One Communications, Richmond, Ky. provided two cellular telephones to the U.S. Secret Service for use in an undercover transaction with Mr. Yates. In a signed sworn affidavit, Cellular One Technician John Herbst stated that the first phone, a Motorola "M" series telephone, mechanical serial number FO9LFD8438AG, was programed with electronic serial number 8262DD8D and telephone number 606-544-5592. Herbst further stated that the second telephone, a Motorola "DCP 550" series cellular telephone, mechanical serial number FO9HLD8415BG, was programed with electronic serial number C34815C8 and contains no telephone number (Mobile Identification Number).

7. That later on September 18th, 1995 an undercover meeting was arranged between SA James Burch and suspect Don Yates.

SA Burch told me that during this meeting, Don Yates took both of the aforementioned cellular telephones from him, recorded the telephone number (from the previously programed "M" series telephone), by turning on the telephone,

and the electronic serial number, which is listed on the rear of that same telephone, and then transferred those numbers to the previously blank telephone by connecting this second telephone, via a patch cord, to a black box located in his briefcase. Yates then keyed in the unauthorized telephone number and electronic serial number by using a key pad on the front of the copycat "black box". Yates then tested the "cloned " telephone to ensure its operation. Upon completion of this process, Burch asked Yates how much he owed him for this service and Yates replied $150. Burch then provided this amount in cash.

8. That on 9/21/95 the aforementioned cellular telephones, previously programed and provided by Cellular One Technician John Herbst, and subsequently "cloned" by Don Yates, were again analyzed by Mr. Herbst at Cellular One Communications, Richmond, Ky. Following his examination of the subject second cellular telephone, the Motorola "DCP 550", Herbst stated that this telephone, which previously contained no telephone number and had an E.S.N. of C34815CB, now contained telephone number 606-544-5592 and an E.S.N. of 8262DD8D. These two numbers were previously programed into the Motorola "M" series telephone with was provided to Don Yates by SA James Burch as his legitimately purchased cellular telephone.

FURTHER COMPLAINANT SAYETH NOT.

James Cobb
Special Agent
United States Secret Service

SUBSCRIBED AND SWORN to before me this 21st day of Sept., 1995

United States Magistrate

"TWO CELLULAR PHONES WITH ONE CELLULAR NUMBER!"

IS THIS LEGAL?

No! Having two cellular phones with one cellular number is in direct violation of the FCC Rules....

Part 22 section 60 of the FCC rules state:

"Further, we conclude that the practice of altering cellular phones to "emulate" ESN's without receiving the permission of the relevant cellular licensee should not be allowed because (1) simultaneous use of cellular telephones fraudulently emitting the same ESN without the licensee's permission could cause problems in some cellular systems such as erroneous tracking or billing; (2) frauduler. use of such phones without the licensee's permission could deprive cellular carriers of monthly per telephone revenues to which they are entitled; and (3) such altered phones not authorized by the carrier, would therefore not fall within the licensee's blanket license, and thus would be unlicensed transmitters in violantion of Section 301 of the Act..."

For more information, please see your manager, or contact John McDonough - legal (916) 648-6905 or Christy Wing - fraud (916) 648-7502

cw/training/c2plus
7/11/95